

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**PENNY L. LATIMER
JENNIFER L. UTTON**

PLAINTIFFS

VERSUS

CAUSE NO.: 1:21-cv-389-HSO-RPM

**WILLIAM D. BREWER
STATE FARM MUTUAL AUTOMOBILE INS. CO.;
AND JOHN AND JANE DOES A; B; AND C**

DEFENDANTS

EXHIBIT A

FIST AMENDED COMPLAINT

(JURY TRIAL REQUESTED)

COME NOW, the Plaintiffs, by and through undersigned counsel, and file their First Amended Complaint against Defendants William D. Brewer; State Farm Mutual Automobile Insurance Company; and John and Jane Does A-C for negligence, breach of contract, and other causes of action and in support thereof would show the Court as follows, to-wit:

PARTIES

1. Plaintiff Penny L. Latimer is an adult resident citizen of the State of Tennessee.
2. Plaintiff Jennifer L. Utton is an adult resident citizen of the State of Florida.
3. Defendant William D. Brewer (replacing Defendant John and Jane Doe D) is an adult resident of Harrison County, Mississippi who committed a tort in Harrison County, Mississippi. Defendant Brewer can be served with process at his residential address located at 12448 Fox Forest Drive, Gulfport, MS 39503 or wherever found in the time and manner prescribed by law.
4. Defendant State Farm Mutual Automobile Insurance Company (“State Farm”) is a foreign insurance company doing business in the State of Mississippi. State Farm’s principal place of business is located at One State Farm Plaza, Bloomington, IL 61710-0001. State Farm may be

served with process on its registered agent for service of process United States Corporation Company, 7716 Old Canton Road, Suite C, Madison, MS 39110 in the time and manner prescribed by law.

5. Defendants John and Jane Does A-C are individuals, corporations or other entities that caused or contributed to cause the injuries and damages of the Plaintiffs advised herein, but whose identities are at presently unknown. Plaintiffs will amend their Complaint at a future date to properly identify John and Jane Doe Defendants, if any, once their identities are learned and liability ascertained.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter under the provision of Title 28, United States Code § 1332 because there is a complete diversity of citizenship between Plaintiffs and Defendants and the amount in controversy exceeds \$75,000.

7. Venue in this civil action is appropriate in this Honorable Court pursuant to Title 28, United States Code § 1391.

FACTS AND CAUSES OF ACTION AGAINST DEFENDANT BREWER

8. On June 30, 2020, Plaintiff Latimer was operating her vehicle according to all rules of the road and was stopped for a traffic light eastbound at the intersection of Wal-Mart Lane and Highway 90 in Harrison County, Mississippi. Plaintiff Utton was the passenger in Plaintiff Latimer's vehicle.

9. Suddenly and without warning, a vehicle operated by and/or owned by William D. Brewer failed to stop and failed to control the momentum and movement of his vehicle and caused a serious rear-end car collision with Plaintiffs' vehicle. Based on knowledge and belief, William D. Brewer was insured by GEICO Insurance Company.

10. As a result of the subject rear-end car collision, Plaintiffs suffered injuries and/or aggravation of pre-existing conditions and damages to their person, including but not limited to their neck and head and other parts of their bodies. Plaintiffs were forced to seek medical treatment and incur reasonable and necessary medical expenses related to their injuries caused by the subject rear-end car collision. The subject rear-end car collision was caused by Defendant Brewer.

11. Plaintiffs charge that Defendant Brewer was negligent, and that said negligence caused or proximately contributed to cause the subject car collision and the personal injuries and damages suffered by Plaintiffs.

12. Plaintiffs allege that Defendant Brewer was negligent in one or more of the following respects which caused or proximately contributed to the subject car collision and Plaintiffs' injuries and damages: (1) In negligently failing to control the movement and momentum of his vehicle; (2) In negligently operating the vehicle with reckless disregard for other vehicles and persons utilizing the road; (3) In negligently failing to keep a proper lookout; (4) In negligently failing to follow the rules of the road; (5) In negligently striking Plaintiffs' vehicle.

DAMAGES AS TO DEFENDANT BREWER

13. As a result of the subject car collision, Plaintiffs, and each of them, have sustained injuries and damages and have incurred and will continue to incur reasonable and necessary medical expenses for treatment; pain and suffering; mental anguish and emotional distress; and other related damages. Further, Plaintiffs are entitled to pre-judgment and post-judgment interest in amount allowed by law but not less than 8%; Attorney's fees; and costs of Court.

CAUSES OF ACTION AGAINST DEFENDANT STATE FARM

14. At the time of the subject rear-end car collision, Plaintiff Latimer was a named insured and insured by State Farm under State Farm Policy Number 4635786F2042 which provided Uninsured

/ Underinsured Motorist Coverage. Plaintiff Utton, as a passenger in Plaintiff's Latimer's vehicle is covered under this policy as she did not have any other uninsured / underinsured motorist coverage under any other applicable policy.

15. State Farm Policy Number 4635786F2042 provided Uninsured / Underinsured Motorist Coverage in the amount of \$250,000 per person / \$500,000 per accident and Medical Payments Coverage in the amount of \$5,000.

16. As Plaintiffs were injured as a direct and proximate result of the subject rear-end car collision, Plaintiffs, and each of them, seek all applicable coverages under State Farm Policy Number 4635786F2042, specifically, Underinsured Motorist Coverage and Med-Pay Coverage. Based on knowledge and belief, Defendant Brewer was underinsured.

17. The State Farm Policy was in full force and effect on June 30, 2020, at the time of Plaintiffs' injuries and damages caused by an underinsured motorist. Plaintiffs seek all applicable coverages from State Farm and any John and Jane Doe Defendants in selling the subject insurance policy(s) to Plaintiff Latimer and promising to provide coverage(s) for situations like these and is in breach of the subject policy(s) / contract(s).

DAMAGES AS TO DEFENDANT STATE FARM

18. As a result of the subject rear-end car collision, Plaintiffs, and each of them, have sustained serious injuries and have incurred and will continue to incur reasonable and necessary medical expenses for treatment; pain and suffering; mental anguish and emotional distress; lost wages, and other related damages. Further, Plaintiffs are entitled to pre-judgment and post-judgment interest in an amount allowed by law but not less than 8%; Attorney's fees; and costs of Court.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that their First Amended Complaint be received and filed, and that Defendants, and each of them, be summoned to answer

this First Amended Complaint and further that upon a trial by jury of this cause, judgment be entered against Defendants, and each of them, for any and all actual and compensatory damages to which Plaintiffs are entitled. Plaintiffs further pray that they be rewarded pre-judgment and post-judgment interest in amount of 8% per annum and/or such other amount as is determined by this Court; fees and costs, including attorney's fees, and such other general relief to which he may be entitled.

Respectfully submitted, this the 28th day of December, 2021.

PENNY L. LATIMER
JENNIFER L. UTTON, Plaintiffs

By: s/ Corban Gunn
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CERTIFICATE OF SERVICE

I, Corban Gunn, do hereby certify that I have filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

So, Certified, this the 28th day of December, 2021.

s/ Corban Gunn
CORBAN GUNN, (MSB #101752)